



**REAL ESTATE COMMISSION**  
STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION  
1010 Richards Street - P. O. Box 3469  
Honolulu, Hawaii 96801

**CONDOMINIUM PUBLIC REPORT**

on

KALEPA BUSINESS CENTER  
73-5574 MAIAU STREET  
KALOKO, LIGHT INDUSTRIAL SUBDIVISION  
KALOKO, NORTH KONA, HAWAII

Registration No. 2043

Issued: October 19, 1989  
Expires: November 19, 1990

Report Purpose:

This report is based on information and documents submitted by the developer to the Real Estate Commission as of October 17, 1989, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

Type of Report:

- ☐ **PRELIMINARY:**  
(yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.
- ☒ **FINAL:**  
(white) The developer has legally created a condominium and has filed complete information with the Commission.
- ☐ **SUPPLEMENTARY:**  
(pink) Updates information contained in the
- ☐ Prelim. Public Report dated \_\_\_\_\_
- ☐ Final Public Report dated \_\_\_\_\_
- ☐ Supp. Public Report dated \_\_\_\_\_
- And ☐ Supersedes all prior public reports
- ☐ Must be read together with \_\_\_\_\_
- ☐ This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

☐ Required ☒ Not Required - disclosures covered in this report.

### **Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

[ ] No prior reports have been issued by the Commission.

[ X] Changes made are as follows:

1. PAGE 11, PERMITTED ALTERATIONS:

Language has been added to make Buyer aware of the necessity of obtaining Building Permits for interior improvements and to make Buyer aware of limitations on total floor space in relation to off-street parking.

2, PAGE 14A:

Limited Common Elements have been added for outside equipment pads for each apartment and for the driveway fronting Apt. #11-B.

3. PAGE 18:

Language has been added to inform Buyers that closing can take place prior to expiration of the 45-day period for filing of mechanics' and materialmans' liens.

4. EXHIBIT "B":

Language has been added to:

- A. Clarify exceptions to prohibitions of work outside the apartments;
- B. Set forth the purpose of outside equipment pads;
- C. Prohibit deposit of toxic substances and limit the use thereof.
- D. Set forth limits on utility usages;
- E. Prohibit through-wall air conditioners in certain places;
- F. Clarify controls on window placement.

5. EXHIBIT "D":

The Maintenance Fee Schedule has been revised with better estimates.

6. EXHIBIT "F":

Language has been deleted which pertained to using Buyers deposits to offset construction costs. Deposits will not be used for such purposes and will remain in escrow until closing.

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## **GENERAL INFORMATION ON CONDOMINIUMS**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's "*Condominium Property Act*" (Chapter 514A, Hawaii Revised Statutes) must be followed.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

Common elements are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called limited common elements and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged, or encumbered, and they may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owner/tenant) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements. The leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

### **Operation of the Condominium Project**

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without a vote of the owners. Some of these actions may significantly impact the quality of life for all apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is vitally important to all apartment owners that the transition from developer to owner control be accomplished in an orderly manner and in a spirit of cooperation.

## SUMMARY OF THE CONDOMINIUM PROJECT

Interest to be Conveyed to Buyer:

- ☒ Fee simple interest in an apartment and an undivided feehold interest in the common elements.  
☐ Leasehold interest in an apartment and an undivided leasehold interest in the common elements.  
☐ Fee simple interest in an apartment and an undivided leasehold interest in the common elements.

### Types of Project:

1. ☒ New Building(s) ☐ Conversion  
☐ Both New Building(s) and Conversion  
 2. ☐ Residential ☒ Commercial  
☐ Mixed Residential and Commercial  
☐ Other \_\_\_\_\_  
 3. ☐ High Rise (5 stories or more) ☒ Low Rise  
 4. ☒ Single or ☐ Multiple Buildings  
 5. Apartment Description See Exhibit "A" attached

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 11

*\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.*

*Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.*

### 6. Parking:

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>35</u>
Guest Stalls	_____
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
<b>Total Parking Stalls</b>	<b><u>35</u></b>

### 7. Recreational amenities: none

## I. PEOPLE CONNECTED WITH THE PROJECT

Developer: Kalepa Kona Partners Phone: (808) 946-3361  
Name 109 Poloke Place (Business)  
Business Address  
Honolulu, Hawaii 96822

Names of officers or general partners of developers who are corporations or partnerships:

Kawika Aina Corp. (David R. McFaul, President)  
Gregory C. Gillette & Assoc., Inc. (Gregory C. Gillette, Pres.)  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Sales Agent: Michael B. Griggs, dba  
Griggs & Griggs Properties Phone: (808) 329-7670  
Name 77-6575 Seaview Circle (Business)  
Business Address  
Kailua-Kona, Hawaii 96740

Escrow: Title Guaranty Escrow Services Inc. Phone: (808) 521-0211  
Name P.O. Box 1678 (Business)  
Business Address  
Honolulu, Hawaii 96806

Managing Agent: Association will self manage Phone: \_\_\_\_\_  
Name \_\_\_\_\_ (Business)  
Business Address  
\_\_\_\_\_

Attorney for Developer: Nancy Gillette  
Name 524 N. Kalaheo Avenue  
Business Address  
Kailua, Hawaii 96734

## II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

- A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

☐ Proposed  
☒ Recorded - Bureau of Conveyances - Book 23514 Page 454  
☐ Filed - Land Court - Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

- B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

☐ Proposed  
☒ Recorded - Bureau of Conveyance Condo Map No. 1231  
☐ Filed - Land Court Condo Map No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

- C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the way in which meetings will be conducted, and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

☐ Proposed  
☒ Recorded - Bureau of Conveyances - Book 23514 Page 484  
☐ Filed - Land Court - Document Number \_\_\_\_\_

Amendment date(s) and recording/filing information:

The Condominium Statute (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

- D. **House Rules.** The Board of Directors may adopt house rules to govern the use and operation of the common elements and individual apartments. House rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais, keeping of pets, and occupancy limits. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial house rules are usually adopted by the developer.

The House Rules for this condominium are:

☐ Proposed      ☒ Adopted

☐ Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of apartment owners who must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	—	<u>51%</u>

*The percentages for individual condominium projects may be more than the minimum set by law.*

2. **Developer:** The developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws, or House Rules:

The Developer has reserved the right to successively amend the Declaration (including the By-Laws, and when applicable, the Condominium Map), without the approval, consent or joinder of any purchaser of an apartment or any of the persons then owning or leasing any apartment, to file the "as built" verified statement (with plans, if applicable) required by Section 524A-12 of the Condominium Property Act, so long as (1) such statement is merely a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built, or (2) any plans filed therewith involve only changes to the layout, location, apartment numbers or elements as built.



### III. THE CONDOMINIUM PROJECT

#### A. Interest to be Conveyed to Buyer:

- ☒ Fee Simple: Individual apartments and the underlying land will be in fee simple.
- ☐ Leasehold or Subleasehold: Individual apartments and the underlying land will be leasehold.

The leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit \_\_\_\_\_ contains further explanations.

Lease Term Expires: \_\_\_\_\_  
Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable: ☐ Monthly ☐ Quarterly  
☐ Semi-Annually ☐ Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  
☐ Month ☐ Year.

#### ☐ Individual Apartments in Fee Simple, Underlying Land in Leasehold or Subleasehold:

The leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners – tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit \_\_\_\_\_ contains further explanations.

Lease Term Expires: \_\_\_\_\_  
Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable: ☐ Monthly ☐ Quarterly  
☐ Semi-Annually ☐ Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  
☐ Month ☐ Year.

#### ☐ Other:

#### For Subleaseholds:

- ☐ Buyer's sublease may be cancelled if the master lease between the sublessor and fee owner is  
☐ Cancelled ☐ Foreclosed.
- ☐ As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is cancelled or foreclosed.

**B. Underlying Land:**

Address: 73-5574 Maiau Street Tax Map Key: (3) 7-3-51-43  
Kaloko Light Industrial Subdivision (TMK)

North Kona, Hawaii

[ ] Address [ ] TMK is expected to change because \_\_\_\_\_

Land Area: 43,563 [X] square feet [ ] acre(s) Zoning: ML-1a

Fee Owner: KALEPA KONA PARTNERS

Name

109 POLOKE PLACE

Address

HONOLULU, HAWAII 96822

Sublessor:

~~Name~~

~~Address~~

**C Buildings and Other Improvements:**

1. [X] New Building(s) [ ] Conversion of Existing Building(s)  
[ ] Both New Building(s) and Conversion

2. Buildings: 1 Floors Per Building 1

[X] Exhibit "A" contains further explanations.

3. Principal Construction Material:

[ ] Concrete [ ] Hollow Tile [ ] Wood

[X] Other STEEL

4. Permitted Uses:

	<u>No. of Apts.</u>		<u>No. of Apts.</u>
[ ] Commercial	_____	[X] Industrial	<u>11</u>
[ ] Residential	_____	[ ] Agricultural	_____
[ ] Timeshare/Hotel	_____	[ ] Recreational	_____
[X] Other:	<u>see EXHIBIT "B" attached hereto</u>		_____

5. Special Use Restrictions:

The Declaration, Bylaws, and House Rules may contain restrictions on the use and occupancy of apartments. Restrictions for this condominium project include but are not limited to:

[x] Pets Not allowed in Common or Limited Common Elements

[ ] Number of Occupants: \_\_\_\_\_

[x] Other: See Exhibit "B" attached hereto

[ ] There are no special use restrictions.

Note: All warehouse apartments are subject to that certain Declaration of Restrictive Covenants, Kaloko Light Industrial Subdivision, Unit 1, dated Sept. 24, 1984, and recorded in the Bureau of Conveyances in Liber 18125, at Page 204, as amended.

6. Interior (fill in appropriate numbers):

Total Apartments 11

Elevators 0

Stairways 0

Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	See Exhibit "A" attached hereto	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

\*Net ~~Living~~ Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

**Boundaries of Each Apartment:**

The boundaries of each apartment will be delineated by the exterior perimeter walls, the centerline of non-loadbearing separation walls, and the floor and ceiling of each apartment as shown on the Condominium Map.

**Permitted Alterations to Apartments:**

See Exhibit "H" attached

7. Parking Stalls:

Total Parking Stalls: 35

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for individual units)	<u>          </u>	<u>25</u>	<u>          </u>	<u>10</u>	<u>          </u>	<u>          </u>	<u>35</u>
Guest	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Unassigned	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Extra Available for Purchase	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Other:	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
Total Covered & Open	<u>25</u>		<u>10</u>		<u>          </u>		

Each apartment will have the exclusive use of at least 3 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

☐ Commercial parking garage permitted in condominium project.

☒ Exhibit "A" contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

☐ There are no recreational or common facilities.

☐ Swimming pool

☐ Storage Area

☐ Recreation Area

☐ Laundry Area

☐ Tennis Court

☐ Trash Chute

☒ Other: one (1) trash (dumpster) location  
landscaping

9. Present Condition of Improvements

(For conversions of residential apartments in existence for five years):

- a. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

N/A

- b. Compliance with Building Code and Municipal Regulations; Cost to Cure Violations

N/A

10. Conformance to Present Zoning Code

- a. ☒ No variances to zoning code have been granted.  
☐ Variance(s) to zoning code was/were granted as follows:

- b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>  x  </u>	<u>          </u>	<u>          </u>
Structures	<u>  x  </u>	<u>          </u>	<u>          </u>
Lot	<u>  x  </u>	<u>          </u>	<u>          </u>

If a variance has been granted or if uses, improvements, or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. **Common Elements, Limited Common Elements, Common Interest:**

1. **Common Elements:** Common Elements are those parts of the condominium project intended to be used by all apartment owners. They are owned jointly by all apartment owners.

☒ Exhibit \_\_\_\_\_ "C" describes the common elements.

☐ As follows:

2. **Limited Common Elements:** Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which may use them are:

☒ described in Exhibit \_\_\_\_\_ "C"

☐ as follows:

3. **Common Interest:** Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is often used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. It may also be used for other purposes, including voting on matters requiring action by apartment owners.

☒ Exhibit \_\_\_\_\_ "A" describes the common interests for each apartment.

☐ As follows:

E. **Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property.

Exhibit "G" describes the encumbrances against the title contained in the title report dated August 17 1989 and issued by Title Guaranty of Hawaii.

**Blanket Liens:**

A blanket lien is a mortgage on a condominium project that secures a construction loan. It is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[ ] There are no blanket liens affecting title to the individual apartments.

[ X ] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. Buyer's interest will be affected only if the developer defaults prior to conveying the apartment to buyer.

**Type of Lien**

There will be a mortgage on the property to secure a construction loan.

**Effect on Buyer's Interest  
If Developer Defaults**

Mortgagee, in its discretion, may either elect to honor Buyer's Contract or return Buyer's deposit.

F. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a managing agent to assist the Association in managing the condominium project.

**Initial Managing Agent:** When the developer or the developer's affiliate is the initial managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial managing agent for this condominium is:

[ ] not affiliated with the Developer.

[ ] the Developer or the Developer's affiliate.

[ X ] self-managed by the Association of Apartment Owners.

[ ] other \_\_\_\_\_

**G. Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided to each apartment.

Exhibit "D" contains a schedule of maintenance fees and maintenance fee disbursements.

**H. Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

<input type="checkbox"/> Electricity	<input type="checkbox"/> Television Cable
<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water & Sewer
<input type="checkbox"/> Other _____	

**I. Construction Warranties:**

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

**1. Building and Other Improvements:**

The execution, delivery and recordation of the Apartment Deed shall constitute the assignment by Developer to Buyer of any and all warranties given Developer by the general contractor for the Project and by any subcontractors or materialmen, including but not limited to said contractor's guarantee of materials and workmanship against faulty or deficient materials and installation for a period of one (1) year after "substantial completion" of the Apartment, as that term is defined in the construction contract for the Project, and the benefit of such warranties shall accrue to Buyer on closing without further instruments or documents.

**2. Appliances:**

N/A

**3. Warranty Exclusions:**

The Developer makes no warranties, express or implied, with respect to the apartment, the common elements, the project, fixtures, or consumer products contained or installed in the apartment.



J. **Status of Construction and Estimated Completion Date:**

Construction commenced on or about September 1, 1989 and, barring any unforeseen events, is expected to be completed by January 31, 1990.

K. **Project Phases:**

The developer ☐ has ☒ has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's Present Plans for Future Development:

L. **Sales Documents Filed With the Real Estate Commission:**

Sales documents on file with the Real Estate Commission include but are not limited to:

☐ Notice to Owner Occupants N/A

☒ Specimen Sales Contract entitled "KALEPA BUSINESS CENTER RESERVATION AND  
SALES AGREEMENT"

Exhibit "E" contains a summary of the pertinent provisions of the sales contract.

☒ Escrow Agreement dated March 7, 1989

Exhibit "F" contains a summary of the pertinent provisions of the escrow contract.

☐ Other

#### IV. ADDITIONAL INFORMATION NOT COVERED ABOVE

Buyers can close the sales of their respective apartments prior to the expiration of the FORTY FIVE (45) DAY PERIOD following completion of the project for filing of mechanics' and materialmans' liens. Lien releases will be secured from all contractors and material suppliers associated with the project at the time of completion.

The Developer and the General Contractor, Dixon Construction Co., shall indemnify Title Guaranty of Hawaii, Inc. and TICOR Title Insurance Company of California against mechanics' liens. Title Guaranty of Hawaii Inc. and TICOR Title Insurance Co. of California shall, at closing of the respective apartments' sales, issue to the apartment owners policies of title insurance that provide protection against mechanics' liens.

Mechanics' and materialmans' liens have priority over liens of any other nature except (1) liens in favor of any branch of government; (2) mortgages, liens or judgements which were recorded or filed prior to the time of visible commencement of operations; (3) mortgages recorded prior to the date of completion, provided that they include a statement declaring that all or a portion of the monies advanced and secured thereby have been used for the purpose of paying for the improvements. Therefore, a mechanics' lien filed after closing, but within the 45-day period after completion of the project would have priority over a mortgage acquired by a buyer to finance the purchase of an apartment in the project. However, the above-referenced indemnities and policies of title insurance will provide protection to the buyer for such mechanics' liens.

Proceeds from the closed sales of apartments conveyed to buyers will initially only be paid out of the respective buyers' escrow accounts to pay for contractors, materials, escrow expenses, and construction loans for the project. No other funds, such as Developer's profit or brokers' commissions, will be paid out of buyers' escrow accounts until the expiration of the 45-day mechanics' lien period.

### **Buyer's Right to Cancel Sales Contract:**

#### **A. Rights Under the Condominium Statute:**

**Preliminary Report:** Sales made by the Developer are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

**Supplementary Report to a Preliminary Report:** Same as for Preliminary Report.

**Final Report, Supplementary Report to a Final Report:** Sales made by the Developer are binding if:

1. The Developer delivers to the buyer a copy of:
  - a. Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report;  
**AND**
  - b. Any other public report issued by the Commission prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
2. The buyer is given an opportunity to read the report(s); and
3. One of the following has occurred:
  - a. The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - b. Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - c. The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

**Material Change:** Binding contracts with the Developer may be rescinded by the buyer if:

1. There is a material change in the condominium which directly, substantially, and adversely affects (a) the use or value of the buyer's apartment or its limited common elements; or (b) the amenities available for buyer's use; and
2. The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

#### **B. Rights Under the Sales Contract:**

Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the condominium. These include but are not limited to the:

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107, adopted by the Real Estate Commission).
7. Other \_\_\_\_\_

If these documents are not in final form, the buyer should ask to see the most recent draft.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107) are available at the Department of Commerce and Consumer Affairs.

This Public Report is a part of Registration No. 2045 filed with the Real Estate Commission on  
March 9, 1989.


Reproduction of Report. When reproduced, this report must be on:

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Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the date of issuance unless a Supplementary Public Report is issued or unless the Commission issues an order extending the effective period for the report.



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PETER N. YANAGAWA, Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

Distribution:

Bureau of Conveyances

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

Federal Housing Administration

Escrow Agent

EXHIBIT "A"

DESCRIPTION OF APARTMENTS

The Project consists of 11 warehouse apartments, as shown on the Condominium Map.

The approximate net floor areas of the apartments are based on measurements taken from the interior surface of all perimeter walls as shown on the Condominium Map, except that no reduction is made to account for interior walls, ducts, vents, shafts, stairways and the like located within the perimeter walls. The floor areas shown below are not exact but are approximations based on the floor plans of each apartment. All floor areas set forth below have been rounded to the next lowest full square foot or tenth of a square foot.

The respective apartments shall not be deemed to include the undecorated or unfinished surfaces of the perimeter walls or interior load-bearing walls or partitions, the foundations, columns, girders, beams, floor slabs, footings, supports, roof and ceilings located within or at the perimeter of or surrounding such apartment, any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes or air exhaust running through or otherwise located within such apartment which are utilized for or serve more than one apartment, all of which are deemed common elements. Each apartment shall be deemed to include all of the walls and partitions which are not load-bearing and which are within its perimeter walls; the inner decorated or finished surfaces of all walls, floors, roof and ceilings; all windows, window frames, louvers (if any), doors or door frames along the perimeter of the apartment; and all of the fixtures originally installed therein.

EXHIBIT "A"

<u>APT. NO. &amp; TYPE</u>	<u>APPROX. FLOOR AREA (SQ.FT.)</u>	<u>% OF COMMON INTEREST</u>	<u>PARKING STALLS</u>
1A	1647.0	8.52	1, 2, 3
2A	1647.0	8.52	4*, 5¢, 6
3A	1647.0	8.52	7, 8*, 9
4A	1647.0	8.52	10, 11, 12
5B	1952.0	10.09	13 <sup>+</sup> , 14*, 15*
6A	1647.0	8.52	16, 17, 18*
7A	1647.0	8.52	19*, 20, 21
8B	1952.0	10.09	22¢, 23*, 24
9A	1647.0	8.52	25, 26, 27¢
10B	1952.0	10.09	28*, 29, 30, 31*
11B	1952.0	10.09	32, 33, 34, 35*

\* Denotes compact parking stalls

¢ Denotes loading spaces

<sup>+</sup> Denotes physically impaired (handicapped) parking stalls

## EXHIBIT "B"

### RESTRICTIONS AS TO USE

The restrictions as to use for Kalepa Business Center are set forth in more detail in Section "H" of the Declaration of Condominium Property Regime of Kalepa Business Center and in the By-Laws of the Association of Apartment Owners of Kalepa Business Center under Article VI, Section 3 thereof.

All warehouse apartments shall be owned, occupied and used for warehouse, factory and/or roadway purposes only and such accessory uses related thereto. The owner or owners of said apartments shall have the absolute right to rent or lease all or any portion or portions of said apartments in connection with such permitted purposes for any length of time and upon such terms and conditions as the owner or owners of such apartment(s) shall determine.

Specific prohibited uses include, but are not limited to, the following: all uses prohibited under present zoning laws; carpentry and/or cabinet making shops; surfboard making shops, automotive mechanic shops; automotive body repair shops; automotive paint shops or any other use which requires excessive noise; the unsafe use and storage of flammable materials as determined by county fire inspectors and storage of customers' motor vehicles within the common elements.

No work of any kind connected with any business operation of a warehouse apartment will be permitted outside the building confines and in the common or limited common elements. The only exceptions shall be for minor routine maintenance of portable equipment or motor vehicles, maintenance such as adding engine oil, adding radiator coolant, or wash-downs.

The 75 square feet (maximum) equipment pads appurtenant to each apartment shall be used only for fixed, non-portable equipment such as fuel storage tanks and compressors. The owner or tenant of each apartment, if they exercise their option to build such an equipment pad, shall screen such equipment from view by constructing covers that match the color of the building or by additional landscape plantings. No equipment shall be installed that has a negative impact on the occupants of other apartments or occupants of neighboring buildings. No other storage of goods or equipment will be permitted outside the building confines or within the common or limited common elements.

EXHIBIT "B"  
(continued)

No toxic substances shall be deposited in the sewer system for the project.

Signs or other advertising matter visible from the exterior of any apartment are also prohibited except that the Developer will provide each apartment with one (1) exterior sign the design and dimensions of which will be determined by Developer.

All warehouse apartments are also subject to that certain Declaration of Restrictive Covenants Kaloko Light Industrial Subdivision, Unit 1, dated September 24, 1984, and recorded in the Bureau of Conveyances, State of Hawaii in Liber 18185 at Page 204, as amended by instrument dated November 2, 1984, recorded in Liber 18251, Page 727. The Design Manual is included as an exhibit to said Declaration of Restrictive Covenants.

TABLE 1  
LIMITS ON CERTAIN UTILITY USAGES

<u>APARTMENT NUMBER</u>	<u>ELECTRICITY</u>	<u>*WATER GALLONS/DAY</u>	<u>**SEWER GALLONS/DAY</u>
1A	200 AMPS/3 PHASE	320	68
2A	200 AMPS/3 PHASE	320	68
3A	200 AMPS/3 PHASE	320	68
4A	200 AMPS/3 PHASE	320	68
5B	200 AMPS/3 PHASE	380	80
6A	200 AMPS/3 PHASE	320	68
7A	200 AMPS/3 PHASE	320	68
8B	200 AMPS/3 PHASE	380	80
9A	200 AMPS/3 PHASE	320	68
10B	200 AMPS/3 PHASE	380	80
11B	200 AMPS/3 PHASE	380	80

\* Based on a limit of 4200 gallons per day for a one-inch water meter in the County of Hawaii, less 400 gallons per day for landscaping irrigation.

\*\* Based on Department of Health standard of 800 gallons per day per cesspool.



EXHIBIT "B"  
(continued)

No window-mounted or through-wall air conditioning units or ducts will be permitted to be installed through exterior walls that front Maiau Street (North wall), or that front the project driveway (Mauka wall).

Windows shall be permitted in exterior walls, but their type, size, and location shall be controlled by the Board of Directors or, prior to the first meeting of the Board, the Developer.

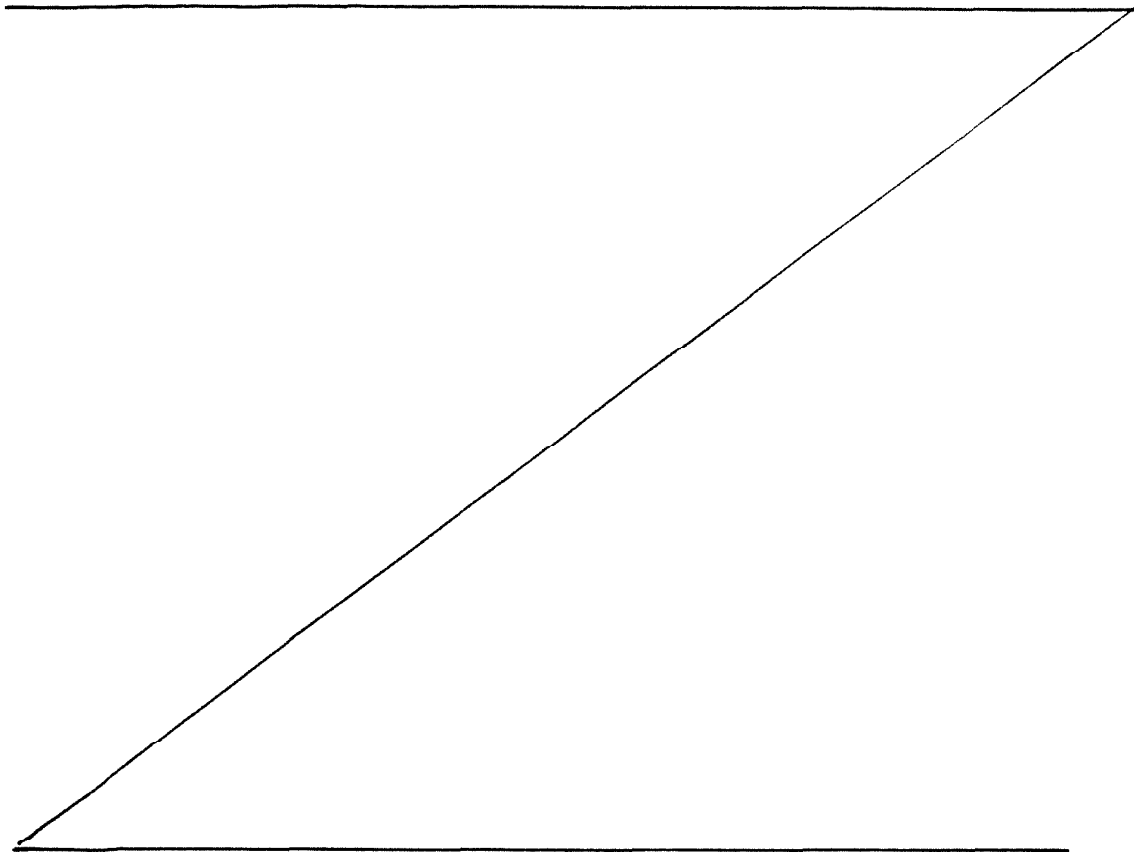


EXHIBIT "B"

(continued)

HAZARDOUS MATERIALS

(1) No toxic substances shall be deposited in the sewer system of the project.

(2) Apartment Owners shall keep and maintain the project, including, without limitation, the groundwater on or under the project, in compliance with, and shall not cause or permit the project to be in violation of, any Hazardous Materials Laws (as hereinafter defined). The Apartment Owners shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of or allow to exist on, under or above the project, any Hazardous Materials (as hereinafter defined) except in strict compliance with the Hazardous Materials Laws.

(3) The Apartment Owners shall immediately advise the Developer or Association of Apartment Owners in writing of (i) any and all enforcement, clean up, removal, mitigation, or other governmental or regulatory action instituted, contemplated or threatened pursuant to any Hazardous Materials Laws affecting the project (ii) all claims made or threatened by any third party against the Apartment Owners or the project relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims") and (iii) the Apartment Owners discovery of any occurrence or condition on the project or any real property adjoining or in the vicinity of the project which could subject the Apartment Owners or the project to any restrictions on ownership, occupancy, transferability or use of the project under any Hazardous Materials Laws.

(4) The Apartment Owner shall indemnify the Developer and the Association of Apartment Owners, their directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under or about the project, including, without limitation: (i) all foreseeable and unforeseeable consequential damages; (ii) the costs of any required or necessary repair, clean up or detoxification of the project, and the preparation and implementation of any closure, remedial or other required plans; and (iii) all reasonable costs and expenses incurred by the Developer or the Association of Apartment Owners in connection with clauses (i) and (ii), including, without limitation, reasonable attorneys' fees.

EXHIBIT "B"

(5) The term "Hazardous Materials" shall include any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous materials", or "toxic substances" under any federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or Hazardous Materials on, under or about the project, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 6901, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. Section 7401, et seq., the Toxic Substance Control Act, 15 U.S.C. Sections 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j, and any similar state and local laws and ordinances and the regulations now or hereafter adopted, published and/or promulgated pursuant thereto (collectively the "Hazardous Materials Laws").

EXHIBIT "C"

DESCRIPTION OF COMMON ELEMENTS

Common Elements. One freehold estate is hereby designated in all remaining portions of the Project, being described and referred to herein as "common elements", including specifically, but not limited to:

- (a) Said Land in fee simple;
- (b) All foundations, columns, girders, beams, footings, floor slabs, supports, unfinished perimeter, party and load-bearing walls and partitions and roof;
- (c) All roadways, fences and gates;
- (d) All pipes, cables, conduits, ducts, pumps, sewer lines, cesspools, drywells, retaining walls, electrical equipment, wiring and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, gas (if any), sewer, water, and telephone; and
- (e) Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

Any entrance or exit which would normally be used for the purposes of ingress to and egress from a specific apartment shall be a limited common element appurtenant to and for the exclusive use of such apartment

Also, all parking stalls are limited common elements appurtenant to and for the exclusive use of each apartment as listed in Exhibit "A".

EXHIBIT "C"

Limited Common Elements

Apartment #11B shall have as a Limited Common Element the paved driveway area between Parking Stalls 32, 33, 34 and 35 and the front of apartment #11B. This area may be fenced at the option of the owner of apartment #11B. A holding tank may also be constructed either within this limited Common Element, or beneath Apt. #11B; and such holding tank shall also be considered a Limited Common Element.

Each apartment shall be allowed, as a Limited Common Element, a 75 square foot (maximum) equipment pad contiguous to and on the makai (west) side of the respective apartments.

EXHIBIT "D"

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee</u> x 12 months = <u>Yearly Total</u>
1A	\$ 82.50 \$ 990.00
2A	82.50 990.00
3A	82.50 990.00
4A	82.50 990.00
5B	97.50 1170.00
6A	82.50 990.00
7A	82.50 990.00
8B	97.50 1170.00
9A	82.50 990.00
10B	97.50 1170.00
11B	97.50 1170.00
TOTALS	967.50 1,1610.00

The Developer shall pay all actual common expenses of the project until the project is 100% complete as shown on the Condominium Map and Construction Drawings.

The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services

Air Conditioning		
Electricity		
(X) common elements only	\$ 125.00	\$ 1500.00
( ) common elements		
and apartments		
Gas		
Refuse Collection	80.00	960.00
Telephone		
Water	160.00	1920.00

Maintenance, Repairs and Supplies

Building	20.00	240.00
Grounds	160.00	1920.00

Management

Management Fee	100.00	1200.00
Payroll and Payroll Taxes		
Office Expenses		

Insurance (Fire, Comprehensive		
General Liability, Liability		
Umbrella, Officers & Directors)	264.50	3174.00

Reserves

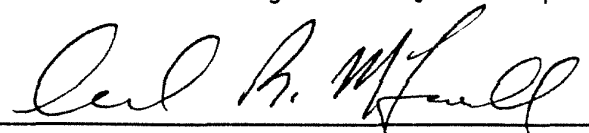
Taxes and Government Assessments

Audit Fees	58.00	696.00
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Other

TOTAL	967.50	11,610.00
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We, KALEPA KONA PARTNERS, as Developers for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



Date: July 12, 1989

EXHIBIT "E"

SUMMARY OF SALES CONTRACT

1. The Reservation and Sales Agreement, hereinafter, "Sales Contract" is not a present transfer of any interest in the Project but only an agreement to purchase and sell apartments.

2. The Seller may mortgage the Project and all apartments prior to the sale of the apartments, including the apartment or apartments being purchased. The Seller's mortgagee will have a security interest in the Project which is prior to any interest the buyer may have in purchasing an apartment or apartments. If necessary, Buyer must execute a document verifying that Seller's mortgagee has such priority.

3. Payment of the purchase price shall be made through an escrow agent, Title Guaranty Escrow Services, Inc. Buyer will have the opportunity to read the Escrow Agreement and agrees with the provisions made therein.

All money for the purchase will be paid to Escrow and may be deposited by Escrow into interest-bearing accounts. All interest earned on such money will belong to the Seller.

4. By signing the Sales Contract, Buyer represents that buyer can make all required payments when due. Buyer must supply the Seller or any mortgage lender with true and accurate financial information.

If buyer needs a mortgage in order to make the purchase, Buyer must apply for a loan within ten (10) business days after Seller signs the Sales Contract. If buyer does not qualify for a loan, Seller has the option of cancelling the sale. If the sale is cancelled, Seller will tell Escrow to return Buyer's money (without interest), minus Escrow's cancellation fee, and Seller's or any lender's fee for processing the Sales Contract or loan application. As soon as buyer receives a commitment letter to make a loan, a copy of the letter must be sent to Seller immediately. If Buyer is unable to go through with the purchase because Buyer's lender does not close the loan, Buyer will be deemed in breach of the Sales Contract. Seller then has the option of keeping all monies already paid by Buyer or pursuing any other legal remedy.



EXHIBIT "E"  
(continued)

If Buyer intends to pay in cash, Buyer must furnish written proof of ability to pay with twenty (20) business days after Seller signs the Sales Contract.

5. Buyer agrees that Buyer has read, reviewed and approved the condominium documents (Declaration and By-Laws), the Condominium Map, Rules and Regulations, if any, of the Project, form of Apartment Deed and the Escrow Agreement.

6. Seller has the right to amend the condominium documents and condominium Map as long as such amendments do not (a) substantially change Seller's obligations under the Sales Contract; (b) substantially change the design, location or size of any apartment or the building in which an apartment is located; (c) cause Buyer to lose Buyer's loan commitment; (d) increase buyer's common interest in the Project; or (e) reduce Seller's obligation to pay common expenses for unsold apartments.

7. There will be no initial Managing Agent. Seller will exercise all rights of the Association of apartment owners and Board of Directors until there are enough other owners to form the Association and Board of Directors at which time the Association may either self manage or appoint a Managing Agent.

8. Seller makes no warranties whatsoever about the physical condition of any apartment or any common element. Seller may require Buyer to inspect the apartment before the sale is closed, and sign a written list of any defects or damage so discovered. If Buyer then fails to inspect, Seller will not be responsible to Buyer if deficiencies, which would have been apparent from such inspection, are discovered later. Even if defects are discovered, so long as the apartment can be occupied by Buyer, Buyer will go through with the purchase.

9. Seller makes no representations or warranties whatsoever concerning any apartment description appearing on the Condominium Map, whether the apartment boundaries consist of any walls, or that the maintenance fees shown in Exhibit "E" of the Preliminary Report and/or any subsequent reports will not change.

Seller further denies that Seller has made any representations to Buyer or anyone else about the rental or resale of apartments. If Seller so requires, Buyer, any

EXHIBIT "E"  
(continued)

salesperson or anyone else connected with the offer to sell or purchase of the apartment will confirm in writing that no such representations were made by Seller or any of the Seller's agents or salespersons.

10. The Sales Contract is not binding on either Buyer or Seller until a Final Public Report on the Project has been issued by the Real Estate Commission and Buyer's right to cancel the sale has lapsed. Buyer can waive the right to cancel and go through with the sale by signing the appropriate form given to Buyer. Buyer will lose the right to cancel unless buyer cancels within thirty (30) days of receiving a copy of the Final Public report, or if buyer proceeds with the sale, occupies the apartment or otherwise accepts it.

11. The sale will close on the date shown on the Sales Contract but, in any event, not sooner than ten (10) days after Seller signs the Sales Contract.

Prior to the date of closing, "pre-closing" can take place so that all documents and other papers will be ready for closing on the scheduled date. Seller can postpone the closing date for an extra thirty (30) days by giving Buyer ten (10) days prior notice.

Prorations of maintenance fees, real property taxes and other costs will be made as of the closing date. All risk of damage or loss to the purchased apartments will also pass to Buyer as of that date.

12. Some of the expenses apart from the purchase price that the Buyer must pay at closing include the following: the entire Escrow fee, notary fees, conveyance taxes, appraisal fees, recording fees, cost of credit reports, document preparing fees, title insurance, all costs of Buyer's mortgage, and prorated maintenance fees and real property taxes. Buyer will also pay a non-refundable, one-time start-up fee to fund the Association of Apartment Owners.

13. Buyer acknowledges that there may be on-going construction and sales activities going on in the Project by Seller or other apartment owners after closing, and consents to such activity.

14. The Sales Contract cannot be transferred or assigned to another buyer without Seller's prior written consent.

EXHIBIT "E"  
(continued)

15. If buyer dies before closing, Seller has the option to cancel the sale and return buyer's purchase money (without interest), less Escrow's cancellation fee or any other costs incurred in processing the Sales Contract or any loan application.

16. Each buyer of an apartment is responsible for the fulfillment of the Sales Contract by all other Buyers of the same apartment and can be held jointly as well as individually liable to Seller.

17. If any court action is filed concerning this Sales Contract, trial will be by judge and Buyer gives up all right to a jury trial.

EXHIBIT "F"

SUMMARY OF ESCROW AGREEMENT

1. All monies payable by Buyers under Sales Contracts shall be made to TITLE GUARANTY ESCROW SERVICES, INC.

2. Buyer's funds will be deposited by Escrow into federally-insured accounts. All interest earned on such deposits will belong to the Seller.

3. Escrow shall be responsible for collecting any payments due under the Sales Contract from the Buyers by giving Buyers written notice. Escrow will also receive evidence of Buyer's ability to pay the purchase price in cash and/or written loan commitments from Buyer's mortgage lender(s).

4. Escrow will conduct the closing of each Buyer's Sales Contract by collecting all necessary funds and documents, recording all applicable real property documents, and doing all other acts required to close sales.

5. Buyers will be entitled to a refund of their monies if any one of the following events has occurred:

(a) Seller directs Escrow to make the refund;

(b) Seller exercises any cancellation right available under the Sales Contract;

(c) Buyer is entitled to a refund under any provision of the Condominium Property Act; or

(d) Buyer exercises any right of cancellation available under the Sales Contract;

Upon cancellation of any sale, Escrow has a right to receive a cancellation fee commensurate with the work Escrow has performed, but in any event not less than Twenty Five Dollars (\$25.00) nor more than Two Hundred and Fifty Dollars (\$250.00).

6. If Seller terminates the Sales Contract due to a default on the part of Buyer, Seller will so notify Escrow. Escrow will notify the Buyer that the Sales Contract was cancelled because of default by certified or registered mail.

EXHIBIT "F"

SUMMARY OF ESCROW AGREEMENT  
(continued)

If Escrow does not hear from Buyer within fifteen (15) days after Buyer has received such notice, Escrow will deduct its cancellation fee from Buyer's monies and treat the remainder as Seller's property.

7. Escrow's fee is THREE HUNDRED DOLLARS (\$300.00).

Note The Escrow Agreement was amended by letter agreement dated June 14 and 15, 1989 to provide that Escrow will not use Buyer's deposits held in escrow to finance construction, in accordance with the policy of the Real Estate Commission to prohibit any such payments.

EXHIBIT "G"

ENCUMBRANCES AGAINST TITLE

1. Real Property Taxes (TMK: 7-3-051-043): For Real Property Taxes that may be due and owing, reference is made to the Director of Finance, County of Hawaii.
2. Ordinance No. 83.38 of the County of Hawaii, and any amendments thereto, as set forth in DEED dated June 27, 1984, recorded in Liber 18148 at Page 659.
3. Covenants, conditions and restrictions set forth in DECLARATION dated September 24, 1984, recorded in Liber 18185 at Page 204. Said Declaration was amended by instrument dated November 2, 1984, recorded in Liber 18251 at Page 727.
4. Mortgage, Security Agreement and Financing Statement dated July 25, 1989 and recorded in the Bureau of Conveyances, State of Hawaii, in Liber 23493, at Page 709, by and between KALEPA KONA PARTNERS ("mortgagor") and FIRST INTERSTATE BANK OF HAWAII ("Mortgagee").

EXHIBIT "H"

PERMITTED ALTERATIONS TO APARTMENTS

A Building Permit shall be obtained for all interior improvements and alterations where applicable.

Any interior improvements or alterations (including removal of walls) if they:

- a. do not affect the structural integrity of the warehouse building;
- b. provide for access from any apartment to common areas;
- c. are made by a licensed contractor in accordance with plans and specifications prepared by a licensed architect or engineer; and
- d. are accompanied by a bond for 100% of the cost of construction and naming the Association as co-obligee;

and provided that:

1. the apartment owner assumes all expenses related to any such improvements and alterations; and
2. the improvements or alterations have been approved in writing by the Board of Directors, owner's mortgagees (if applicable), and all governmental agencies having authority over such improvements or alterations;
3. the interior improvements or alterations shall comply with all applicable laws, including but not limited to Section 25-73 of the Hawaii County Zoning Ordinance which specifies the limits on floor space in relation to available off-street parking;
4. restrictions on air conditioners are obeyed (Exhibit "B")
5. restrictions on windows are obeyed (Exhibit "B").